

BOOK REVIEWS

The Meaning of Treason. By Rebecca West. New York: The Viking Press, 1947. Pp. 307. \$3.50.

Treason is the measure of many things today. The rules defining it are among the few great rules of law of any society. Treason, by the scope of its definition and application, measures the effective difference between police state and democracy. Treason, by the frequency of its appearance, is a measure of the health and well-being of a society. Treason, because it is perhaps the most fundamental of crimes, is also a measure of our understanding of the deviant impulses and pressures that appear to make law necessary.

It is with the last of these things that Miss West is especially concerned in her study of twenty or so men brought to trial in England as traitors at the end of World War II. The result is a superb book contributing to law, to psychology, to journalism, and, with the greatest distinction, to the contemporary writing of the English language.

Treason's harvest is not quite what we should have expected. The Germans appear to have placed a high price on inducing British treachery at even the lowest levels.¹ They concentrated on the weak and the uninformed and alternately coerced, bribed, and seduced. A few who were very young, or eccentric, or had genuine German ties succumbed. In one case the man was a traitor technically only because the overshrewd Germans, suspecting him as a spy, delayed so long on his application for German citizenship.

If this were all, the study of the trials would serve only to corroborate the remarkable morale of the English during the war, and would be a study only of the pathetic and the eccentric.

But there are three other cases not so easily understood: William Joyce, the Lord Haw-Haw who, simply by broadcasting, may well have made himself the most hated traitor in English history; John Amery, son of a distinguished family, who moved unsteadily from a career as playboy to aide and gun runner for Franco and then to ally of the Germans in the effort to bribe British prisoners to enlist in the British Free Corps; and Dr. Allan Nunn May, a distinguished scientist who gave or sold some atomic bomb data to a Russian agent.

It is, I think, the one flaw of the book that Miss West did not make a more coordinate study of these three. We get only a few pages on May which do not take us far enough for the intended comparison of Communist and Fascist to be effective.

We get some thirty pages on Amery, beautifully and sensitively done, but these again are not enough to give us a clue as to how so happy an environment could produce so perverse a son. It may be that at this stage of our knowledge of these things no one could do more, and Miss West's final comment on Amery is perhaps the only

¹ There is the brief but fascinating suggestion that the organization of British treachery had become something of a racket for many Germans who professed to be experts in this form of psychological warfare (p. 131).

appropriate one. She is describing the conclusion of the trial. The old judge, "whose age was crisp as a fine winter night with a fierce wit on his tongue and a fiercer wit on his face," lectured Amery at some length before passing sentence and came to comment on the fact that in Amery's trips to the POW camps some of the prisoners had warned him he was committing high treason:

It was not a point worth making, so far as Amery was concerned. . . . Yet, if what the Judge said had little application to Amery, he seemed to say it because his mind had been shocked into flight underground to some place near the sources of our general destiny. The Judge said slowly, with accusation and querulous wonder in his voice, "They called you traitor and you heard them."

It is otherwise with the handling of Joyce. Here there is a rich and full study. Miss West has spared no effort to collect bits from the crazy quilt of his life, and she has speculated long about him. It is the report on Joyce that is the solid achievement of the book, and Miss West quite persuades us that a study of Joyce is close to the heart of the appeal of fascism.

Joyce is the one traitor of stature. Throughout the difficult months of his trial he conducted himself with extraordinary serenity and integrity. His statement dictated immediately after his capture, which Miss West quotes in full, is an unusually able document in view of his circumstances. He was a hard worker, scrupulous about his personal debts, an extraordinary public speaker, a good leader and administrator. He was a man of wit and some education, a successful teacher, a loving husband.

He was also insatiably ambitious. But he had about him an "ineradicable oddity" and a curious air of illiteracy for an educated man. Miss West repeatedly muses over this indefinable lack in Joyce's personality which appears to have meant in English society that he could never belong.

His life was full of erratic little pieces. The most hated of British traitors was born in Brooklyn. He fought with the British against his own Irish kinfolk in the Irish rebellions. For many years he insisted that social evenings end with a singing of the British national anthem. In the end he was captured only because he was moved to an unnecessary courtesy to two British officers who were looking for kindling wood.

Then there is the darker side. He loved street fighting and military trappings; he was addicted to the raincoat, "that extravagant present of the Nazis to the psychologist." He was an early and enthusiastic visitor to Nuremberg. And in his broadcasts he had a way of rolling on his tongue with a singular delight figures as to the English dead and the lost English tonnage.

Miss West offers us several hypotheses as to William Joyce. One is that he early and irrevocably became habituated to intrigue and violence because of his family's connections with the Irish rebellions. Another is simply that he was a man with a fierce ambition which he recognized could never be satisfied within the traditional framework of British life. But the talk of "ineradicable oddity," as though Joyce wore his flaw on his sleeve for all to see, is not altogether persuasive. Nor does the ambition of many men remain so stubbornly incommensurate with their real possibilities.

A third hypothesis recognizes the ambivalence in Joyce's attitude toward England and offers in a stunning summary the psychoanalytic insight into the profound and mysterious impact of infancy:

But they put the child down when it wants to be taken up, they will not go on giving food till the limits of greed are reached, they sometimes move it into colder airs; and for these hostile acts they are hated, each time with a final and desperate hatred because the child has

not enough experience to know that the hostility will not continue forever. At that stage the parents are the environment, they are authority; and the conceptions of environment and authority are coloured throughout our adult lives with the unrestrained emotions of cooing and squalling infancy. Most parents and children contrive to gentle their relationship by tolerance of each other's wills so that it serves them well, and most citizens make the claims of the state and their individualities balance on their books. But there are those who never persuade the love and hatred they feel for their parents to sign a truce; and these often find themselves compelled to spend their lives in love and hatred of the society of which they are a part, striving to make it more beautiful and noble, but insisting that the prerequisite of its reforms is its destruction.

The most extreme form of this is the revolutionary, and Joyce was "the sublime example of this extreme type."

Still another hypothesis, set forth at the conclusion of the Joyce discussion, is more intricate and has a marked similarity to the thesis Erich Fromm propounds in *Escape from Freedom* as an explanation for fascism. There are many growths of the Fascist stem, Miss West begins. There are those simple ones without a sense of process who believe that all benefits can be readily obtained and cannot understand who it is that keeps them from their share. But Joyce was not one of these. There is the malcontent professional soldier or the misfit aristocrat, like Mosley, but Joyce again was not one of these. He was rather, she continues, a new type of fascist. The advent of democracy had deprived him of his alibi for not attaining power. It must be that he failed because he did not please, was not liked. Here Miss West suddenly works out a striking characterization of fascism. And so "since William Joyce was not liked, he would drive out the element of liking from the governmental situation."

She pushes this speculation one step farther. Why was Joyce's appetite for political office so insatiable? She answers that because here alone today can the insecure man find a relationship, like the old relationship with God, one which cannot be qualified or questioned.

Therefore the man who would have been happy in the practice of religion during the ages of faith has in these modern times a need for participation in politics which is strong as the need for food, for shelter, for sex. It feeds his soul, it keeps it from the wind, it drives out that terrible companion loneliness.

There is finally the ironic insight into that extraordinary serenity at the trial.

It is possible that in these last days fascism had passed out of the field of his close attention; that what absorbed him was the satisfaction which he felt at being, for the first time in his life, taken seriously. It was at last conceded that what he was and what he did were matters of supreme importance.

The legal issues in the Joyce trial are of considerable interest in themselves.² The application in his case of principles of the law of treason involved equity in the classical sense. Mysteriously enough, Joyce had never become a British citizen although he had long professed to be one. As a consequence, his case turned on the bond of allegiance established by his holding an unexpired British passport when he first began to broadcast for the Germans.

There was widespread feeling among the English, lay and professional, that Joyce

² The final appeal is reported in *Joyce v. Director of Public Prosecutions* [1946] 1 All E. R. 186 [H.L.]. Porter, L.J., dissented solely on the issue of whether Joyce's use of the passport should not more explicitly have been left to the jury. Miss West has an interesting defense of the trial judge's instructions on this point at pages 45-46. The case is noted in 13 *Univ. Chi. L. Rev.* 362 (1946); 59 *Harv. L. Rev.* 612 (1946); 62 *L.Q. Rev.* 105 (1946).

should not have been convicted under the law. There is enough complexity to the legal issues involved to make us wonder, for at least a moment, whether despite the majestic and precise ritual of the trial, it was anything more than the community's revenge on a hated member.

Miss West handles the legal matters with competence, and the underlying moral judgment with eloquent indignation. Many English, she notes, had begun to say that Joyce was a vile little man but should not have hanged. They were doubly wrong, she insists. He was not vile but he should have been hanged. And when she has finished she has, I think, established both her points. As Joyce makes a claim to our attention in any study of fascism comparable to that of a Hitler, Goering, Goebbels, or Hess, so his trial is hauntingly similar to the Nuremberg trials. Here again is the question of whether the extension of law to the new case or the refusal to extend it would have been the greater affront to moral sensitivity.

It is something of a shock after reading this book to turn to a competent orthodox legal discussion of the case and realize how much of the color and meaning are lost in the process. It is not just the special flavor of treason that adds the dimension here; a reporter of Miss West's skill and perception could weave the same magic about a very large area of the law in our books. The law man cannot of course always study his law as poetry, but he should be indebted to Miss West for this reminder of how close to poetry, as well as to psychology, his law is.

Treason is the measure of many things today, but it remains a kind of mystery. Joyce merely broadcast; he did not fire a gun, drop bombs, kill. Yet he was more odious and more hated than the enemy, and the law says his crime was far the greater one. For Miss West and the English who were united by the suffering of the war, loyalty to one's own group was no idle phrase. In an illuminating comment at the start of the book she contrasts treason and incest: The one is a travesty of legitimate hatred as the other is a travesty of legitimate love. The ultimate fate and meaning of treason are for her, as she says at the close of the book, the misery and loneliness of deserting one's own for the stranger.

But incest and treason are conspicuous among the primitive taboos. Perhaps, in the end, treason also measures the gravest illness of our time because the loyalties against which it sins, even the best of them, are as yet too provincial and limited.

HARRY KALVEN, JR.*

The Illinois Business Corporation Act Annotated. Second edition. 2 vols. Chicago: Burdette Smith Co., 1947. Pp. xxi, xxi, 1281. \$20.00.

The legal profession of the State of Illinois has every reason to be grateful to the members of the Corporation Law Committee of the Chicago Bar Association for having produced these magnificent volumes which are bound to be an almost indispensable *vade mecum* for every legal practitioner even remotely concerned with the formation, management, and dissolution of corporations governed by the law of Illinois. Apart from this, its primary and immediate significance, however, this work is of outstanding value to those who, like the present reviewer, are interested in the development of American corporation law in a more academic capacity. The student of comparative Company Law will find this work an almost inexhaustible source of information. It

* Assistant Professor of Law, University of Chicago.